

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed July 21, 2004 (Paper No. 20). Reconsideration and allowance of the application and presently pending claims 17-55 and 60-62 are respectfully requested. Applicants should not be presumed to agree with any statements made by the Examiner in the Office Action unless otherwise specifically indicated by the Applicants.

I. Allowable Subject Matter

In the Office Action, Claims 36-55 are allowed. Claims 56-59 stand objected to as being dependent upon rejected base claims 17, 22, 26, and 32, respectively, but would be allowable if the dependent claims are amended to include all of the limitations of their base claims and any of their intervening claims. Applicants have amended independent claims 17, 22, 26, and 32 to include all the limitations of dependent claims 56-59, respectively. Consequently, Applicants respectfully request that independent claims 17, 22, 26, and 32, and their dependent claims 18-21, 23-25, 27-31, 33-35, and 60-62 be allowed and the rejection be withdrawn.

II. Response to Claim Rejections Under 35 U.S.C. §103

In the Office Action, claims 17-19, 22-23, 26-28, 32-33 and 60-62 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 6,078,619, to *Monro, et al.* in view of U.S. Patent No. 6,151,296, to *Vijayan, et al.* Claims 20-21, 24-25, 29-31, and 34-35 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Monro, et al.* and *Vijayan, et al.* as applied to claims 17, 22, 26, and 32, respectively, and further in view of U.S. Patent No. 6,415,055 to *Kato*.

A. Claims 17, 22, 26, 32

Claims 17, 22, 26, and 32, as amended, recite:

17. A system for communication of video information over a network, comprising:

a first object-oriented coder that divides data into object macroblocks and background macroblocks, the object macroblocks and background macroblocks being a portion of partitioned-video data that is transmitted at a bit rate, ***the first object-oriented coder that evaluates whether the bit rate of the partitioned-video data is less than a bit rate of nonpartitioned-video data and assigns a higher number of error control overhead bits to the object macroblocks than to the background macroblocks when the bit rate***

of the partitioned-video data is less than the bit rate of the nonpartitioned-video data.

(Emphasis Added)

22. A method for communicating video information over a network, comprising the steps of:
dividing data into object macroblocks and background macroblocks, the object macroblocks and background macroblocks being a portion of partitioned-video data that is transmitted at a bit rate;
evaluating whether the bit rate of the partitioned-video data is less than a bit rate of nonpartitioned-video data; and
assigning a higher number of error control overhead bits to the object macroblocks than to the background macroblocks when the bit rate of the partitioned-video data is less than the bit rate of the nonpartitioned-video data.

(Emphasis Added)

26. A system for communicating video information over a network, comprising:
means for dividing data into object macroblocks and background macroblocks, the object macroblocks and background macroblocks being a portion of partitioned-video data that is transmitted at a bit rate;
means for evaluating whether the bit rate of the partitioned-video data is less than a bit rate of nonpartitioned-video data; and
means for assigning a higher number of error control overhead bits to the object macroblocks than to the background macroblocks when the bit rate of the partitioned-video data is less than the bit rate of the nonpartitioned-video data.

(Emphasis Added)

32. (Currently Amended) A computer readable medium having a computer program for communicating video information over a network, the program performing the steps of:
dividing data into object macroblocks and background macroblocks, the object macroblocks and background macroblocks being a portion of partitioned-video data that is transmitted at a bit rate;
evaluating whether the bit rate of the partitioned-video data is less than a bit rate of nonpartitioned-video data; and
assigning a higher number of error control overhead bits to the object macroblocks than to the background macroblocks when the bit rate of the partitioned-video data is less than the bit rate of the nonpartitioned-video data.

(Emphasis Added)

Applicants respectfully submit that the cited references fails to disclose, teach, or suggest the above-emphasized features of claims 17, 22, 26, and 32. Accordingly, for at least this reason alone, among others, Applicants respectfully submit that claims 17, 22, 26, and 32 be allowed and the rejection be withdrawn.

B. Claims 18-21, 23-25, 27-31, 33-35, and 60-62

Because independent claims 17, 22, 26, and 32 are allowable over the cited art of record, dependent claims 18-21, 23-25, 27-31, 33-35, and 60-62 are allowable as a matter of law for at least the reason that dependent claims 18-21, 23-25, 27-31, 33-35, and 60-62 contain all the features and elements of their respective independent base claim. *See, e.g., In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Accordingly, Applicants respectfully request that the rejection to dependent claims 18-21, 23-25, 27-31, 33-35, and 60-62 be withdrawn for this reason alone, among others.

C. Claims 60-62

The Examiner has taken Official Notice that “correcting error introduced by distortions in the coded image by way of determining a threshold in the SNR of the macroblocks is conventionally well known in the art.”

According to MPEP 2144.03, “It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known.” MPEP 2144.03 also states that “If such notice is taken, the basis for such reasoning must be set forth explicitly. The Examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge.”

Applicants respectfully traverse the Examiner’s Official Notice for at least the following reasons:

1. The fact sought to be established by the Official Notice is not capable of “instant and unquestionable demonstration as being well-known.”
2. The bases for the Official Notice were not set forth explicitly.

3. The Examiner did not provide specific factual findings predicated on sound technical and scientific reasoning to the support the conclusions of common knowledge.
4. The Examiner failed to cite documentary support for the Official Notice.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, among others, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 17-55 and 60-62 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned at (770) 933-9500.

Respectfully submitted,



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